

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

AUG 11 2004

OFFICE OF
MANAGING DIRECTOR

Aaron D. Wallender
President
Ubik Corporation
907 East Dowling Rd., #24
Anchorage, Alaska 99518

Re: KNIK-FM, Anchorage, Alaska
Ubik Corporation
Request for Waiver of FY 2003 Regulatory Fee
Fee Control No. 00000RROG-04-062

Dear Mr. Wallender:

This is in response to your request dated May 24, 2004, submitted on behalf of Ubik Corporation (Ubik), for a waiver and refund of the fiscal year (FY) 2003 regulatory fee for Station KNIK-FM, Anchorage, Alaska. Our records indicate that the fee was not paid.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

You assert that Ubik "is in financial distress" and that the regulatory fee "will significantly impact the ability of Ubik to provide over the air radio broadcast service to the public[.]" In support, you submit a profit and loss statement for Ubik for the 2003 calendar year entitled "Ubik Corporation P&L 2003 Combined 12 Month" (2003 Profit and Loss Statement). You also submit a statement entitled "Ubik Owners & Employees Compensation - 2003" (2003 Compensation Statement). You explain that the line item for "Corporate Expenses" on the 2003 Profit and Loss Statement includes the payments to principals identified on the 2003 Compensation Statement. You also explain that the term "G&A" on the 2003 Profit and Loss Statement refers to general and administrative expenses, and includes amounts for administrative payroll, payroll tax liability, insurance, legal and accounting fees, and studio facility rents. You assert that "KNIK is one of only

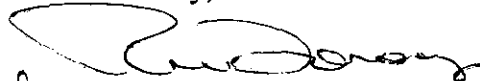
five locally owned commercial radio stations in Anchorage[,]” “one of the most competitive broadcast radio markets within the United States.”

The 2003 Profit and Loss Statement and 2003 Compensation Statement indicate that Ubik suffered a financial loss for calendar year 2003 that was only partially offset by depreciation and payments to principals. Given that Ubik suffered a financial loss for calendar year 2003, we find that Ubik has shown good cause to warrant a waiver of the FY 2003 regulatory fee and we grant your waiver request. Because our records reflect that Ubik did not pay the FY 2003 regulatory fee, we deny your request for a refund of the regulatory fee.¹

You have also requested confidential treatment of the material that you submitted with your request for fee relief. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. §0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your regulatory fee is received, you will be notified and afforded the opportunity to respond at that time.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

¹ Because we grant your request for a waiver of the regulatory fee on the grounds of financial hardship, we do not address your additional arguments in support of a waiver of the fee.